



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,511	04/14/2004	Maohua Dong	4990.003	6463

7590 06/02/2006

Mark D. Bowen ESQ.
Stearns Weaver Miller, WEISSLER ALHADEFF
NEW RIVER CENTER, SUITE 2100
200 EAST LAS OLAS BOULEVARD
Fort Lauderdale, FL 33301

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
----------	--------------

3727

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

E

Office Action Summary	Application No. 10/824,511	Applicant(s) DONG, MAOHUA	
	Examiner Robin A. Hylton	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 1, 2006 has been entered.

Drawings

2. The drawings were received on May 1, 2006. These drawings are approved.

Specification

3. The disclosure is objected to because of the following informalities: "outer skirt 40" should read -- lower outer skirt 40 -- at page 7, lines 19 and 23. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herr (US 4,526,281) in view of Yeager (US 5,207,341) as evidenced by Konefal (US 2004/0178164).

Herr teaches a reversible child resistant closure system comprising: a container **14** comprising an open top; a cap **10** adapted for mating engagement with the top of said container, said cap including an upper portion defining an axial plug **21** having an outer surface including a non-child resistant engaging means for engaging said container, said cap including a lower portion defining a lower circumferential outer skirt **22** including a child-resistant engaging means for engaging said container; and a resilient insert **49** within said cap, said insert disposed for

Art Unit: 3727

axially contacting the open top of said container when said cap when said child-resistant engaging means engages said container. (See figures 1-2 for child-resistant mode and figure 7 for non child-resistant mode). Herr does not teach an upper circumferential outer skirt in radially spaced surrounding relation with said plug outer surface on said upper portion and radially inwardly relative to the lower circumferential skirt **22**.

Yeager teaches a container assembly having a cap **2** including an axial plug **24** having an outer surface including engaging means **10** for engaging said container and a circumferential outer skirt **22** in radially spaced surrounding relation with said plug outer surface.

Konefal teaches it is known to provide a closure cap having reversibly engaging positions on an associated container, the cap having two radially spaced and concentric skirts on one side of a horizontal closing wall of cap and a concentric skirt **44** spaced outwardly of the other two skirts and on an opposite side of the horizontal, closing wall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a circumferential outer skirt in radially spaced surrounding relation with said plug outer surface to the cap of Herr. Doing so provides protection for the threaded portion, provides a smooth outer surface on the assembly with the cap in the non child-resistant mode, protects one's hand from scraping against the bayonet structure on the outer surface of the container neck, provides a larger grasping area for removal of the closure from the container, and adds stability to the cap in the non child-resistant mode.

To provide the upper circumferential outer skirt radially inwardly of the lower circumferential skirt would have been obvious to one having ordinary skill in the art at the time the invention was made, since it has been held that rearranging parts of an invention involves only routine skill in the art. This is further evidenced by Konefal which teaches the spacing between the radially spaced apart concentric skirts is sufficient for engagement of the container

Art Unit: 3727

mouth. Making the cap with the outer wall having the same radial extent as the opposed wall on the opposite side of the horizontal, closing wall would not allow for secure engagement between the cap and the container mouth. In the instant case, the spacing provides a more secure engagement between the closure and container mouth as well as a tactile indication of the arrangement between the opposed skirts.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan (US 5,924,588) in view of Yeager, as evidenced by Konefal.

With reference to figures 2 and 3, Brennan teaches a reversible child resistant closure system comprising: a container **22** comprising an open top; a cap **20** adapted for mating engagement with the top of said container, said cap including an upper portion defining an axial plug **46** having an outer surface including a non-child resistant engaging means **90** for engaging said container, said cap including a lower portion defining a lower circumferential outer skirt including a child-resistant engaging means **60** for engaging said container; and a resilient insert **40** within said cap, said insert disposed for axially contacting the open top of said container when said cap when said child-resistant engaging means engages said container. Yeager does not teach an upper circumferential outer skirt in radially spaced surrounding relation with said plug outer surface on said upper portion and radially inwardly relative to the lower circumferential skirt.

Yeager teaches a container assembly having a cap **2** including an axial plug **24** having an outer surface including engaging means **10** for engaging said container and a circumferential outer skirt **22** in radially spaced surrounding relation with said plug outer surface.

Konefal teaches it is known to provide a closure cap having reversibly engaging positions on an associated container, the cap having two radially spaced and concentric skirts

Art Unit: 3727

on one side of a horizontal closing wall of cap and a concentric skirt **44** spaced outwardly of the other two skirts and on an opposite side of the horizontal, closing wall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a circumferential outer skirt in radially spaced surrounding relation with said plug outer surface to the cap of Yeager. Doing so provides protection for the threaded portion, provides a smooth outer surface on the assembly with the cap in the non child-resistant mode, protects one's hand from scraping against the bayonet structure on the outer surface of the container neck, provides a larger grasping area for removal of the closure from the container, and adds stability to the cap in the non child-resistant mode.

To provide the upper circumferential outer skirt radially inwardly of the lower circumferential skirt would have been obvious to one having ordinary skill in the art at the time the invention was made, since it has been held that rearranging parts of an invention involves only routine skill in the art. This is further evidenced by Konefal which teaches the spacing between the radially spaced apart concentric skirts is sufficient for engagement of the container mouth. Making the cap with the outer wall having the same radial extent as the opposed wall on the opposite side of the horizontal, closing wall would not allow for secure engagement between the cap and the container mouth. In the instant case, the spacing provides a more secure engagement between the closure and container mouth as well as a tactile indication of the arrangement between the opposed skirts.

Response to Arguments

7. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

10. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

11. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

Art Unit: 3727

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature_____

Date_____

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan New house, can be reached on (571) 272-4544.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

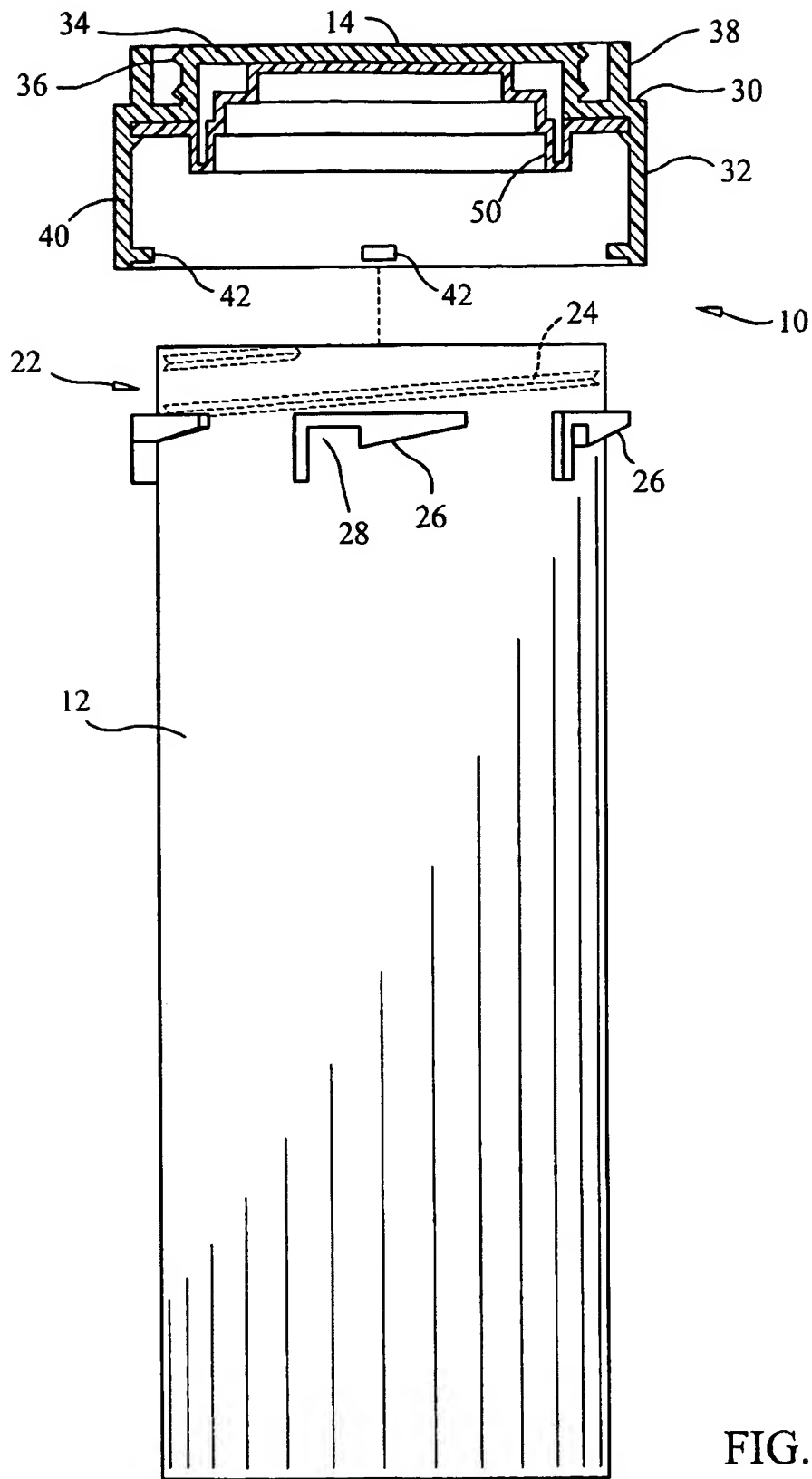
Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH
May 16, 2006


Robin A. Hylton
Primary Examiner
GAU 3727

approved ~~at~~



Handwritten signature

REPLACEMENT SHEET

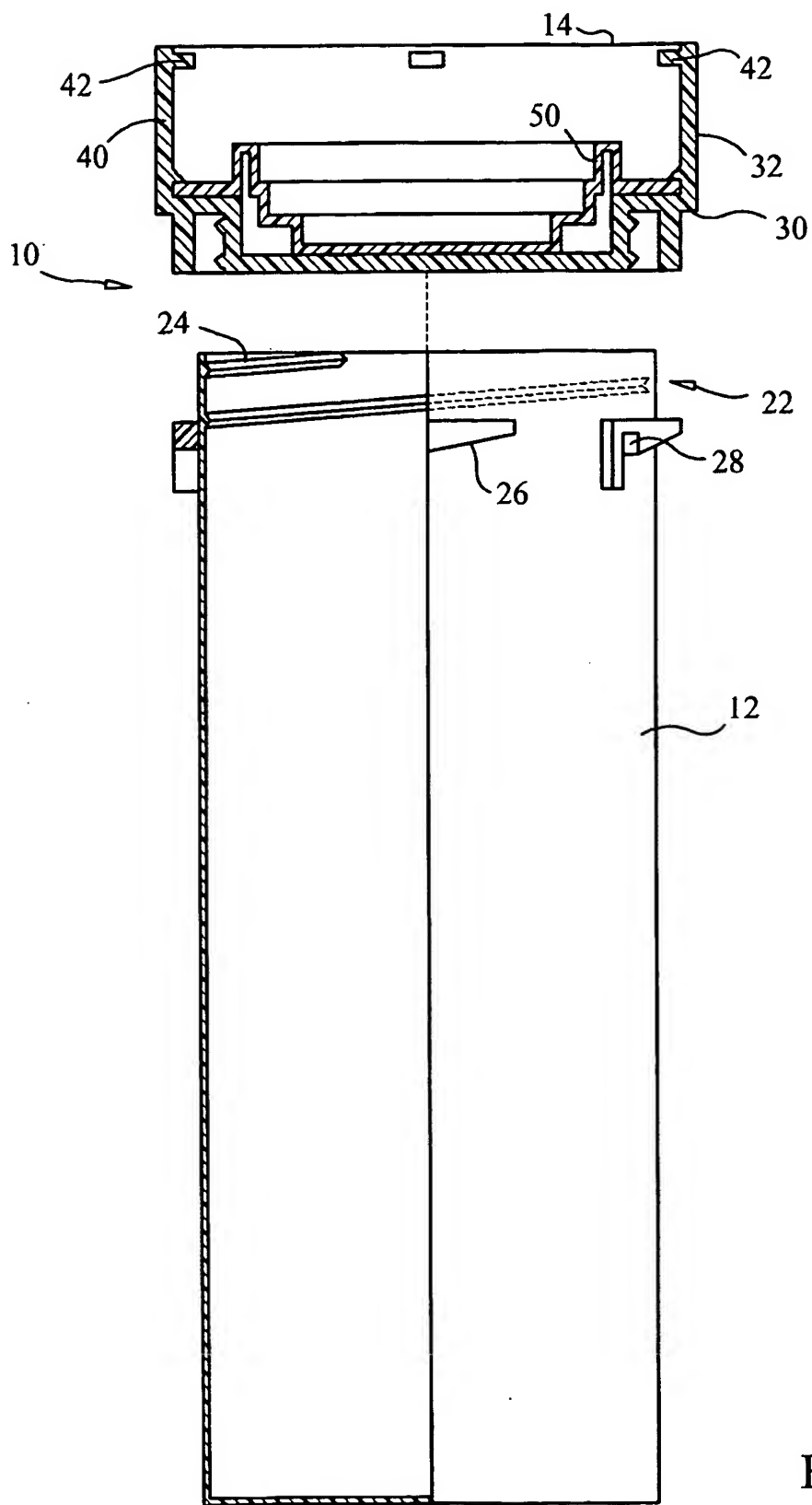


FIG. 2

REPLACEMENT SHEET

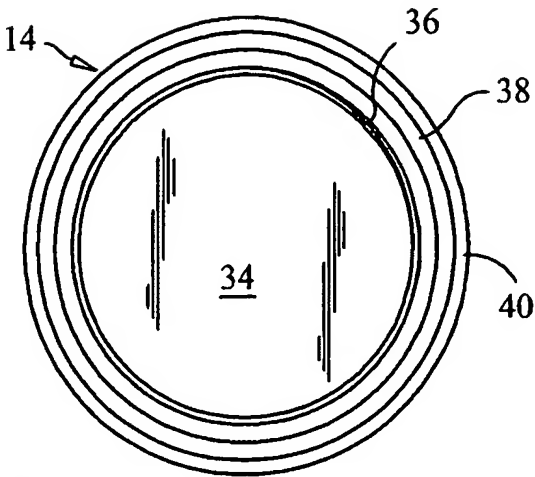


FIG. 3

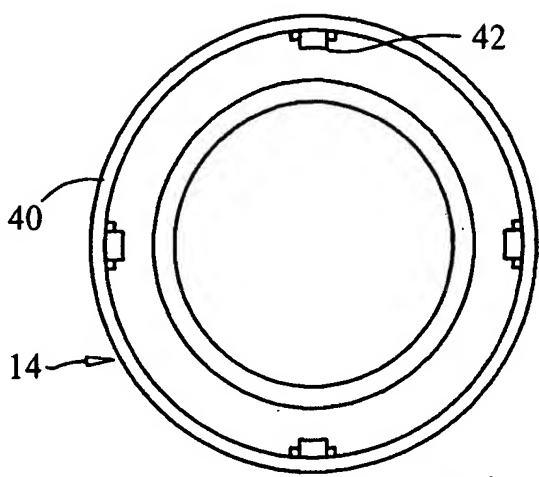


FIG. 4

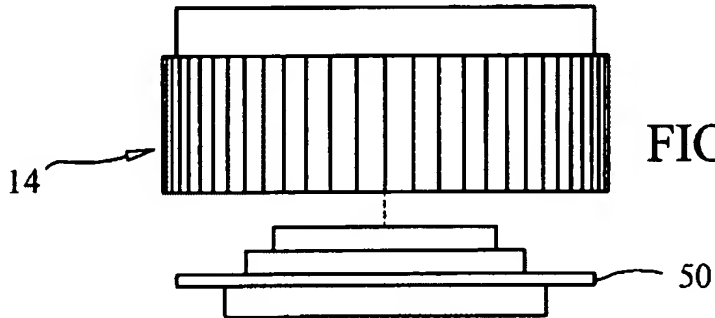


FIG. 5

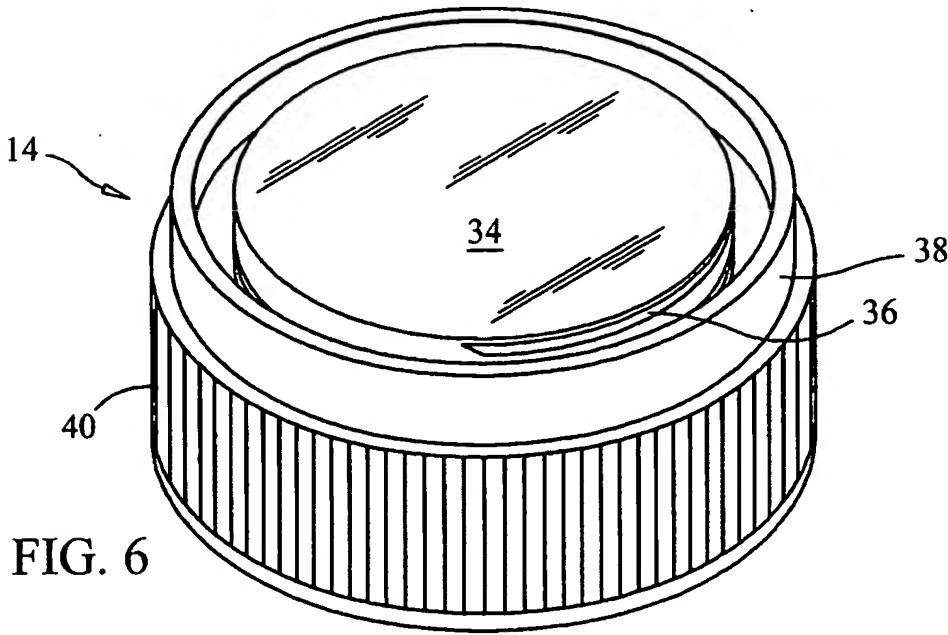


FIG. 6